

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. No. 16-882 (GMS)
SUN PHARMACEUTICAL INDUSTRIES,)	C.A. No. 16-853 (GMS)
LTD., SUN PHARMA GLOBAL FZE and)	CONSOLIDATED
SUN PHARMACEUTICAL INDUSTRIES,)	
INC.,)	
)	
Defendants.)	

STIPULATION OF DISMISSAL AND [PROPOSED] ORDER

Plaintiff Amgen Inc. ("Plaintiff") and Defendants Sun Pharmaceutical Industries, Ltd. ("Sun Ltd."), Sun Pharma Global FZE ("Sun FZE") and Sun Pharmaceutical Industries, Inc. ("Sun, Inc.") (collectively Sun Ltd., Sun FZE and Sun, Inc. are referred to herein as "Defendants"), the parties in Civil Action No. 16-cv-882-GMS and C.A. No. 16-853-GMS CONSOLIDATED (the "Action"), have agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in an executed Settlement Agreement (the "Settlement Agreement").

Now the Parties, by their respective undersigned attorneys, hereby stipulate as follows, and respectfully request the Court issue the following Order:

STIPULATION OF DISMISSAL

1. This Court has jurisdiction over the subject matter of the above action and has personal jurisdiction over the parties for purposes of this Action.
2. As used in this Stipulation (i) the term "Defendants' Product" shall have the definition set forth in the Litigation Settlement Agreement with an effective date of October 24,

2017; and (ii) the term “Affiliate” shall mean any entity or person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with Defendants for purposes of this definition, “control” (a) means ownership, directly or through one or more intermediaries, of (1) more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or (2) more than fifty percent (50%) of the equity interests in the case of any other type of legal entity or status as a general partner in any partnership, or (b) any other arrangement whereby an entity or person has the right to elect a majority of the Board of Directors or equivalent governing body of a corporation or other entity or the right to direct the management and policies of a corporation or other entity.

3. In this Action, Plaintiff asserted claims against Defendants for infringement of U.S. Patent No. 9,375,405 (the “Amgen Patent”) in connection with Defendants’ submission of Abbreviated New Drug Application No. 207008.

4. Except as otherwise set forth in the Settlement Agreement, Defendants, for themselves and their Affiliates, acknowledges and agrees that, with respect to Defendants’ Product only, the Licensed Patents, including U.S. Patent Number 9,375,405, are valid and enforceable and would be infringed by the manufacture, use, sale, offer to sell, importation or distribution of the Defendants’ Product in or for the United States prior to the Entry Date.

5. The parties have agreed to resolve their respective claims against each other pursuant to the terms and conditions set forth in the Settlement Agreement.

6. Both parties agree that all claims, defenses, and counterclaims set forth in Plaintiff’s and Defendants’ pleadings against each other in the Action should be dismissed without prejudice.

[PROPOSED] ORDER

1. The parties have resolved their respective claims, defenses and counterclaims pursuant to the terms of the Settlement Agreement.
2. Except as authorized by Plaintiff or permitted under the Settlement Agreement, Defendants, including any of their successors and assigns, are enjoined until the last to expire claim of the Amgen Patent, including any extensions and/or additional periods of exclusivity to which Amgen is or becomes entitled, from infringing the Amgen Patent, on its own part or through any Affiliate, from making, having made, using, selling, offering to sell, importing or distributing of the Defendants' Product in the United States.
3. All claims, defenses, and counterclaims set forth in Plaintiff's and Defendants' pleadings against each other in the Action are hereby dismissed without prejudice.
4. The Court retains jurisdiction over Plaintiff and Defendants for purposes of enforcing the terms of the Settlement Agreement and this Stipulation of Dismissal and Order.
5. Compliance with this Stipulation of Dismissal and Order may be enforced by Plaintiff or Defendants, and their respective successors in interest, or assigns, as permitted by the terms of the Settlement Agreement.
6. The Action is resolved without costs, disbursements or attorneys' fees to any party.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

PHILLIPS, GOLDMAN, MCLAUGHLIN & HALL, P.A.

/s/ Maryellen Noreika

/s/ David A. Bilson

Jack B. Blumenfeld (#1014)
Maryellen Noreika (#3208)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com
mnoreika@mnat.com

John C. Phillips, Jr. (#110)
David A. Bilson (#4986)
1200 North Broom Street
Wilmington, DE 19806
(302) 655-4200
jcp@pgmhlaw.com
dab@pgmhlaw.com

Attorneys for Amgen Inc.

OF COUNSEL:

OF COUNSEL:

Mark S. Schuman
Samuel T. Lockner
Caroline L. Marsili
CARLSON, CASPERS, VANDENBURGH, LINDQUIST &
SCHUMAN
225 South Sixth Street, Suite 4200
Minneapolis, MN 55402
(612) 436-9600

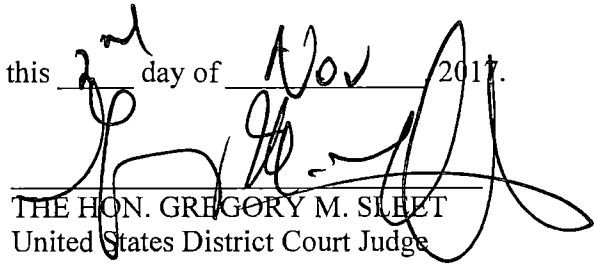
John D. Murnane
Joshua I. Rothman
Alicia A. Russo
FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, NY 10104-3800
(212) 218-2100

*Attorneys for Defendants Sun Pharmaceutical
Industries, Ltd., Sun Pharma Global FZE, and Sun
Pharmaceutical Industries, Inc.*

Wendy A. Whiteford
Lois M. Kwasigroch
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, CA 91320-1789
(805) 447-1000

October 27, 2017

IT IS SO ORDERED this 27 day of Nov 2017.



THE HON. GREGORY M. SLEET
United States District Court Judge